

Planning Commission Minutes
December 3, 1996

Present: Vice Chairman Dick Dresher, Dean Jolley, Don Milligan, Mike Holmes, Mark Green; Sam Fowler, City Council Representative; Rusty Mahan, City Attorney; Blaine Gehring, Planning Director; Connie Feil, Recording Secretary.

Absent: Chairman Elaine McKay, City Engineer Jack Balling, Lois Williams and Ken Cutler.

Dick Dresher welcomed all those present. Mr. Dresher mentioned that an amended agenda has been given for item #5, Consider preliminary and final approval of a land trade and single lot approval between Bountiful City and Peter Billings at approximately 1679 Maple Hills Drive, to be canceled for a future date. The minutes for November 19, 1996 were modified with the following additions and corrections:

Dick Dresher mentioned that this is a residential nature with the same guidelines, other than nursing homes, as a multiple family unit. Mr. Dresher suggested that since this is a Conditional Use that some stipulations be added along the residential guidelines. Mr. Dresher also has some concerns about the parking. He feels that some of the parking does not meet the ordinance and should not be allowed. The three parallel parking spaces behind the building must back out onto the street which are not allowed. There isn't a place for a delivery truck or garbage pick up to turn around so they will have to back out which this is not allowed. Those seven or eight parking spaces in the back are not allowed. The CR Zone is a little unclear because this has not been brought up before. This is a Residential type of use but is in a Commercial/Residential Zone. The parking stipulations in the CR Zone states that there will be no parking in the front yard. The ordinance ~~also~~ states you can't park in the front yard yet there will be two spaces in the front yard. If you eliminate the parking in the front and in the back you have only 8 spaces which are not enough. There should also be extra parking for employee shift changes which this plan does not provide for.

Richard Miles mentioned that the parking requirements for this type of facility will meet the requirements of HUD. Mr. Miles believes that this facility is within the limits for parking. Dick Dresher pointed out that the applicant has to meet the City Ordinances not the ordinance from HUD.

Mark Green asked what the distance will be for side yards and back yards? On the north side (back of the building) there is ten feet, ten feet on the west side, 30 feet on the east side and twenty feet on the south side (front of the building). Mr. Gehring mentioned that the setbacks are in compliance with the ordinance. Mr. Green has some concerns with the parking. He feels that this facility needs more parking for their employees and

visitors. On Sunday afternoons when visitors can't find a parking space, because of the Tabernacle across the street, they will have to walk a block or more for visits. Parking is essential for this facility and Mr. Green feels that what is now being provided will not be adequate. Mr. Green is in favor of this type of facility, but is concerned with the facility and needs further review. Mr. Green asked what does the density profuse to be? There can be 51 units per acre and this property is just over an acre. The proposal is for 60 units.

Mark Green made a motion to approve the minutes for November 19, 1996 as modified. Mike Holmes seconded the motion and voting was unanimous.

Conditional Use Permits

1. Public hearing to consider granting a conditional use permit and preliminary and final site plan approval for wireless antennae on the Upper Williams Tank Site at approximately 1535 E. Maple Hills Drive, Western PCS/Voicestream Wireless, applicant.

John Allred, representing Western PCS/Voicestream Wireless, was present. Blaine Gehring explained that the City has been approached by several companies to put up antennas or towers in the City. This is a result from a new telecommunications act passed by Congress earlier this year. Western PCS, also known as Voicestream Wireless, would like to place two small antennas on the Upper Williams Tank Site at 1535 E. Maple Hills Drive. These antennas would be mounted at the edge of the buried tank and only be about 10 feet in height. There will be a small equipment pad enclosed by an 8-foot chain link fence just inside the fence around the tank site. This pad will be placed back so that it will not be obtrusive. They are small and close to the ground and behind most of the homes to where they do not pose sight problems. The City has some concerns with granting the tank sites for security purposes. The City will limit only one provider per tank site because of the space. There is not enough room to provide for a tower on these tank sites. Staff does not see a problem with these antennas at this site and recommends granting this conditional use permit and a preliminary and final site plan. There has been only one letter received by our office against this project.

Rusty Mahan explained to the Planning Commission Members and all those present for the Public Hearing that the City does not have authority to reject a telecommunication proposal. The Utah courts have made it very clear that opposition, in and of itself, to a Conditional Use Permit is not a legal basis to turn down a permit. People opposing the permit just because they don't like it is not a good enough reason to turn down a permit. The Utah Supreme Court has made it very clear that where there is any doubt about an interpretation of a zoning ordinance the decisions need to be made against zoning restrictions. In January of this year the U.S. Congress passed the Federal Telecommunications Act of 1996 which has caused problems legally in terms of local zoning and local control of telecommunication. The U.S. Congress nearly preempted all local zoning and control of telecommunications invested in the Federal Government. The Congress relented and permitted restricted control to local zoning authority.

The City has very limited authority to reject any telecommunication structures or towers in the City. The City cannot have a prohibition and we cannot erect barriers to telecommunications within the City.

The Telecommunications Act has established the principal of universal service. One of the goals of the act is for everyone in the United States to have access to telecommunication services.

Congress has mandated that access to this service be given no matter where the people live. The Congress has also stated that no local government can make any decision on telecommunications based on the environmental effects from the radio frequency emissions. Any denial of a telecommunications item must be based on substantial evidence and must be put into a written record that can be appealed by the Federal Court. The City nor the Planning Commission can deny these antennas or towers just because we don't want them in our City. There are laws that must be followed by the Federal Telecommunications Act.

John Allred thanked the Staff for all their time and effort that has been spent on this project. Mr. Allred has talked with some of the neighbors about their concerns with putting up a tower. Mr. Allred explained that there will not be any towers in their back yards. There will be an antenna mounted on a 3" diameter pole no more than 10 feet above ground. These antennas will be less visible and obtrusive, almost invisible.

Matt Knebl, Radio Frequency Engineer with Western PCS, explained that the coverage in Bountiful has been poor. The sites in the area are too far away to give quality service. Western PCS needs a telecommunication relay facility in the vicinity of this site in order to supply adequate service to the east side of town. In Mr. Knebl opinion this site will be the ideal spot with the best coverage.

There was a discussion about if this location will be used for other companies to co-locate their antennas? There will be no co-location on this site. This site doesn't have the room required for towers or any more antennas. The City has some concerns with security because this is a water tank site. The concerns with security will increase with more providers.

Dick Dresher opened for a Public Hearing for those who have any comments. Harold Larsen has poor TV reception and has heard that with this antenna it will make it worse. He feels that he and the neighbors were here first and that good TV reception should be considered before good reception for Voicestream. The antenna frequency will not interfere with the neighborhood TV or telephone reception. The power usage and emissions is very low and will not affect the neighborhood. Radio and television stations use more power and transmit more emissions than these antennas will.

Dave Welsh has some concerns with the health hazard from the radiation created by these antennas. He feels that this location should be moved to another site because his grandchildren will be exposed. With the Federal Telecommunications Act the radio frequency emissions as a health hazard cannot be considered.

Howard Lakin has some concerns about what direction the antennas will be pointed. He was told they will be away from his home.

Wayne Leary is a customer of Western PCS and appreciates the company striving for better service.

Clarence House also has concerns about some problems with his television reception. The problems he is now having are from television, radio stations, and could be from neighbors CB radios and satellite dishes.

Todd Rigby, who works for Voicestream, explained that Voicestream is in the business to provide the best service possible for everyone. We feel that with this site this service can be accomplished. If there are some neighborhoods with poor coverage some adjustments can be made to improve the service.

Wayne Leary feels that the neighborhood should not be opened up to an antenna farm. The neighborhood should not have to accommodate the growing wireless phone business.

C E Farr has some concerns with how many more communication networks Bountiful is going to allow? You let one company come in then you will have all of them. The hillside will be full of communication towers.

David Carter, works for Western PCS, explained that as more homes are being built more utility facilities, (water, sewer and electricity), are needed. As the community grows so will be the need for the telecommunications systems.

Diane Peterson read a letter from her husband, John, opposing this project. John feels that these antennas should be in commercial areas and the City is opening the door for an antenna farm in residential area. He feels that the value of his home will be lowered because of these towers or antennas.

Rick Spehar has some concerns on the impact of property value. He feels that the value of his home will be lower because of these towers.

Mark Green feels that the property value is speculative. The value of a home would depend upon the buyer.

The Public Hearing was closed for the Planning Commission for their comments and concerns. Dick Drescher mentioned that with the advancements in technology within the next few years these facilities are getting smaller. Mr. Drescher lives in the valley and there are several things that have put an impact on him. Building above him, the traffic increase from those above him

and he has telephone poles where those above do not. There are several things that visually obstruct everyone.

Mark Green has concerns about the security for the water tank. The reasons for the fences around the water tanks are to keep unauthorized people out. Mr. Green asked if there will be a key shared by the City and Voicestream and how is the security going to be handled? Mr. Gehring said that Voicestream will have a lock on the Cities lock. Mr. Green also asked will there be a problem with people having access to the water tank without the Cities knowledge? Mr. Green has some great concerns about the creditability of people who have access to a water tank. This water tank is linked with all the water tanks in the City. If one tank gets contaminated, all tanks will be contaminated.

Rusty Mahan mentioned that access to the tank can be a term of the lease. In the lease it could be stated that Voicestream is accompanied by a City employee or that they are approved in advanced before entering. Mr. Mahan said that the security could be one of the terms of the conditional use permit.

Mr. Green feels that it should be a condition of the permit. He also asked if there would be any problem with limiting the structure to 10 feet tall and limiting to 4 poles with no more than 2 antennas on each pole? Voicestream is asking for 4 poles with 2 antennas on each pole no more than 10 feet tall. Mr. Green would like 4 poles with 2 antennas each and no more than 10 feet tall also the access to the site is to be secured.

Jack Cook, employee from the Water Department, mentioned that the Water Department doesn't like to have double locks. It has created some problems. Someone can give the access when needed. There is someone on call 24 hours a day 7 days a week.

Dean Jolley asked if there is a real need to have this service for Bountiful? Is there that many people that use this service? This type of service is growing and the need is also growing. Voicestream has invested a lot of money because of the need.

Mark Green made a motion to grant a conditional use permit and preliminary and final site plan approval for wireless antennae at 1535 E. Maple Hills Drive subject to the recommendations of Staff with the following modifications and additions:

1. Secure all necessary building permits and city leases for the antennae.
2. Pave with asphalt the remainder of the access road with proper drainage control of water runoff with the approval of the City Engineer.
3. Limit the number of posts to no more than four, each with a maximum of two panel antennas.
4. Limit the height to no more than ten feet above existing ground level.

5. Access to the site by Western PCS is to be subject to strict City control and supervision.

Don Milligan seconded the motion and voting was unanimous.

2. Public Hearing to consider granting a conditional use permit and preliminary and final site plan approval for a 5-plex and an existing house at 309 W. 200 N., Doug Parkin, applicant.

Mr. Gehring explained that Mr. Parkin is the owner of a parcel of property containing a single family home at 309 E. 200 N. He would like to build a 4-plex on the rear of the property along with the existing home. The property measures 0.5355 acres in size. The base density of 10 units per acre would allow him only 5 units. As applied to the maximum allowed of 13 units per acre, the bonus would allow him 7 units. Mr. Parkin is only asking for a total of 6 units on the property which would be, in fact, an increase of only 2 units per acre rather than 3 units. Reviewing the requirements for a 2-unit per acre increase, we find the following:

Structure Design

The proposed 5-plex is a two-story structure with a “ranch” style roof over the porches to break up the line on the front of the building for added design quality. Each unit has a private patio area in the rear yard. Each unit has separate laundry facilities.

Landscaping

Forthy-six percent of the site in landscaped. Based on the site plan there are sufficient shrubs and trees for the 6 total units.

Building Materials

The exterior of the 5-plex must be maintenance free. These units will be part brick with a high quality stucco. The density bonus also requires a higher architectural grade shingles these requirements have also been met.

Parking Facilities

The requirements are 1 covered parking space per unit and be landscaped. These requirements have been met.

Neighborhood Compatability

The height of the structure and its setbacks are not out of character with the existing

neighborhood.

Energy Efficiency

All of the energy efficiency requirements have been provided.

The Staff recommends granting this conditional use permit and recommend preliminary and final site plan approval to the City Council with the following conditions:

1. Pay a storm detention fee of \$2,100.00 per acre x .05355 acres=\$1,125.00.
2. Provide a 7 ft. easement along the front property line and a 10 ft. easement on the west, east and rear sides of the property.
3. Approval by the Fire Marshall for fire protection.
4. Payment of sewer connection fee of \$600.00 per unit at time the building permit is issued.
5. Payment of water connection fee (based on final plans) at time building permit is issued.
6. Completion of final plans as required by the building code.

Doug Parkin mentioned that the additional apartment will help with the expenses of building and will provide housing for a family in an area that has a multiple housing shortage. There should be a minimal impact on the neighborhood. Mr. Parkin plans to keep these units clean and will keep up with the maintenance.

Mr. Gehring mentioned that the Planning Commission will need to address the type of fence Mr. Parkin plans install around the property. The home is in good condition and is not a concern to up grade it. This home and the apartments will have to stay in the same ownerships.

A discussion was made on how the garbage will be handled and what size will the patios be for these units? Mr. Parkin prefers to have individual cans or a dumpster from the City rather than have it done by a commercial company. The patio area for each unit will be private but not covered and will measure 10'x17'.

The Public Hearing was opened for all those who had concerns or comments. Clarence House feels that he and the neighborhood are being dumped on. The existing apartments have not been maintained and the tenants are not quality people. The crime rate has gone up since the last apartments were built. He feels that the value of his home has gone down because of the apartments. He also feels that he has some rights and this project should not be accepted.

Jack Cook has concerns with the street being so narrow. The traffic will increase with these extra units. The street has sunk and there has not been any maintenance for the street. The neighbors are concerned with safety for the children with the additional traffic.

Dean Stringham has concerns with the increase in crime with more apartments. The vandalism and crime have increased with each additional apartment complex. There are drug dealers and undesirables in the existing apartments.

Rusty Mahan explained that the issue before the Planning Commission is a conditional use permit to increase the density from 4 units to 5 units. Mr. Parkin can build a 4-plex without coming to the Planning Commission.

Mark Green mentioned that Mr. Parkin can apply for a building permit for a 4-plex without the Planning Commission approval. He can build it with cheaper materials, less landscaping and lower rentals. With using the Density Bonus Mr. Parkin will build higher quality apartments. The zoning here will allow apartments.

Craig Moyer wanted to know how many square feet per unit and what will be charged for rent? Each unit will be charged \$825.00 per month rent and each unit will be about 1020 sq. feet. These units will be high quality apartments so the rent can be higher and will attract a better grade of people. All tenants will have a credit check and a background check to assure reliable people.

Mike Holmes mentioned that he lives by apartment and rentals. He is also concerned about crime and some apartments are poorly managed. Mr. Parkin is building units for good reliable tenants. The zoning is there for apartments and he has the right to build them.

Dick Drescher asked about phone calls or letters. There has not been any response by phone for or against this project. Clarence House presented two letter from neighbors against this project.

The Public Hearing was closed for further comments from the Planning Commission Members.

Mark Green has some concerns with apartments behind an existing house, fire hydrant, sewer lines, garbage and what type of fence will be required. It looks like an apartment flag lot. He feels that the house should be visually compatible with the apartments. Mike Barfuss, Fire Marshall, will review the plans for requirements of a fire hydrant. Jack Balling has reviewed the site plans for the sewer and the requirements have been met.

Dick Drescher mentioned that the fence should be a 6-foot solid barrier type fence. The existing chain link fence will not have to be replaced but slats will need to be put in. It will be required for the remaining fence to be block, brick or solid vinyl. The garbage needs to be behind a

screened wall that is compatible with the apartments. If the tenants have their own cans there will not be a way to move the cans into the front for pick up.

Mr. Parkin will comply with what is necessary to meet the requirements. If necessary a cement pad can be poured for individual cans or a dumpster. Mr. Gehring suggested using individual cans in an enclosed area.

Dick Drescher feels that the existing home should look like the apartments. In the area there are homes with apartments behind the home. These homes have not been upgraded with the apartments to give the appearance of a project.

Don Milligan made a motion to grant a conditional use permit and preliminary and final site plan approval for a 5-plex and an existing house at 309 W. 200 N. subject to the conditions' 1-6 and the addition of the following:

7. Adequate garbage facilities as approved by the Planning Director.
8. A 6 ft. solid or masonry type fence approved by the Planning Director.

Mark Green seconded the motion and voting was approved by majority vote with one opposed.

Meeting adjourned at 9:35 P.M.